

DOCUMENT RESUME

ED 106 981

EA 007 177

TITLE A Recommended Guide to Students' Rights and Responsibilities in Michigan.

INSTITUTION Michigan State Dept. of Education, Lansing.

PUB DATE 74

NOTE 40p.; Not available in hard copy due to marginal legibility of original document

EDRS PRICE MF-\$0.76 HC Not Available from EDRS. PLUS POSTAGE

DESCRIPTORS Corporal Punishment; *Court Litigation; Dress Codes; Due Process; Elementary Secondary Education; Married Students; Police School Relationship; Pregnant Students; School Law; *School Policy; Search and Seizure; *Student Behavior; Student Publications; Student Records; *Student Responsibility; *Student Rights; Suspension

IDENTIFIERS Michigan

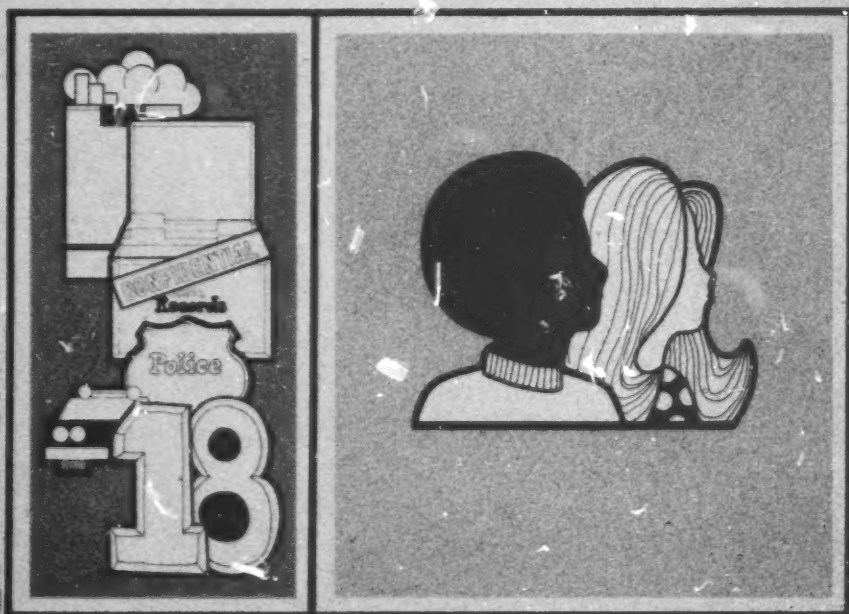
ABSTRACT

These guidelines describe areas of concern as indicated by recent litigation, questions received from local school districts, and complaints received from parents and students. They also present, as a frame of reference, the status of current school law where and as it applies to the area of students' rights and responsibilities. The document is divided into five major sections: (1) background information and the purpose and need for such a document, (2) aspects of current law and practices relative to student behavior, (3) specific student behavior in terms of rights and responsibilities, (4) suspension of students along with guidelines for procedural due process, and (5) summary of the document with requests for continual review and reevaluation. (Author/MLP)

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

A RECOMMENDED GUIDE TO
**students' rights
and responsibilities
in michigan**



State Board of Education



Marilyn Jean Kelly,
President
Troy



Dr. Gordon Riethmiller,
Vice President
Chelsea



Edmund F. Vandette,
Secretary
Houghton



Annetta Miller,
Treasurer
Huntington Woods



Barbara A. Lumouchelle
Grosse Ile



Barbara J. Roberts
Lansing



Norman Otto Stockmeyer, Sr.
Westland



Roger Tilles
Flint

Ex-Officio Members



William G. Milliken,
Governor



Dr. John W. Porter
Superintendent of Public Instruction

contents

FOREWORD

GUIDELINES

PART I

INTRODUCTION	1
A. Background Information	1
B. Purpose of Guidelines	1
C. Organization of Document	2

PART II

CURRENT LAW AND PRACTICE	3
A. Authority of Local Boards of Education	3
B. Authority of State Board of Education	3
C. Rights of Students	3
D. Responsibilities of Students	4

PART III

STUDENT BEHAVIOR IN TERMS OF RIGHTS AND RESPONSIBILITIES	
Guideline 1 — Smoking in the Schools	7
Guideline 2 — School Records	8
Guideline 3 — Student Publications and Newspapers	12
Guideline 4 — Other First Amendment Rights	15
1. Patriotic and Religious Activities	15
2. Assembly, Petition, Symbolic Speech, Inquiry and Expression	16
Guideline 5 — Dress and Grooming	17
Guideline 6 — Married and/or Pregnant Students	19
Guideline 7 — Corporal Punishment	21
Guideline 8 — Search and Seizure & Police in the Schools	22
1. Search and Seizure	22
2. Police in the Schools	23
Guideline 9 — The Charging of Fees and the Withholding of Grades, Credits, Diplomas and Transcripts	24
Guideline 10 — Fraternities, Sororities and Secret Societies	26
Guideline 11 — The Age of Majority	27

PART IV

SUSPENSION OF STUDENTS AND PROCEDURAL DUE PROCESS	
1. Authority of <i>Michigan School Code</i>	28
2. Education as a Right	28

PART V

SUMMARY	33
---------------	----

foreword

There is no doubt that during the past several years, students, teachers, administrators and parents have become increasingly concerned with questions about the rights and responsibilities of individuals and groups within the schools. This highly complex and sometimes volatile issue is being raised during an era in which the most pressing questions being asked by society are in regard to human rights and social responsibilities. The problem of student rights can be viewed, therefore, as a manifestation of a much larger social phenomenon.

This document addresses itself to the rights and responsibilities of the parties most intimately concerned with this issue. Efforts have been made to eliminate statements which represent moral judgements and opinions; and confine this document to statements and positions which can be substantiated by recent court decisions or other official actions. In this respect, the intent of this document is to provide a source of information and *suggested guidelines* to local school districts in the development of their own policies on student rights and responsibilities.

The Michigan Department of Education has involved many people from as many diverse school areas as possible — teachers, administrators, students, parents, and Departmental personnel — who have worked together in the development and preparation of this document. Mr. John Dobbs of the Department has coordinated this input, and Mr. David Lowman, also of the Department, wrote the initial draft. The Department is particularly grateful to the Ad Hoc Commission on Disorder and Disruption in Michigan Secondary Schools which spent many hours reviewing and discussing the preliminary materials for these state guidelines. In addition, the State Board of Education and staff expresses its appreciation to the Michigan Education Association, the Michigan Federation of Teachers, the Michigan Congress of School Administrators' Associations, the Michigan Association of School Boards, and the State Advisory Council on Elementary and Secondary Education for their invaluable contributions to these guidelines.

Although no specific recommendations are made in this document regarding how local boards of education might achieve the goal of effective student rights and responsibilities, it is the intent of the State Board that (1) each district promulgate a formal written code of student conduct, (2) make it public and accessible to all students and parents, and (3) within this document, define as precisely as possible student rights and responsibilities, including unacceptable student behavior and penalties to be imposed when such behavior is exhibited. The State Board of Education is hopeful that local boards will find this publication useful, and the Department will annually review its content for revision and updating.

John W. Porter

part 1

INTRODUCTION

A. BACKGROUND INFORMATION

The State Board of Education's 1971 publication, *The Common Goals of Michigan Education*, identified under "Citizenship and Morality," Goal 3 — Rights and Responsibilities of Students, states:

"Michigan education must recognize and protect the individual and legal rights of students as people and as citizens, regardless of race, religion, or economic status. Together with these rights, students must accept responsibilities and disciplines essential to our society. Implicit in this goal is the recognition of the corresponding rights of parents, teachers, and other participants in the educational process."

Because of a variety of numbers and types of unprecedented incidents, the general issue of students' rights and responsibilities has, in the past five to ten years, become a matter of considerable concern in Michigan and in the nation. This educational concern, similar to others of a controversial nature, is manifested by students, their parents, and the general public; and, it is of particular interest to those school board members, school administrators, counselors, and teachers whose responsibility it is to maintain, administer, and operate the public system of elementary and secondary education.

Inquiries pertaining to students' rights and responsibilities received by the Michigan Department of Education indicate an increasing "need to know" by local school officials. By the same token, questions and complaints received from parents and students underscore both the necessity for current information and the variance of present practice in handling issues of school control of student behavior.

B. PURPOSE OF GUIDELINES

This publication attempts to present a set of guidelines for the use of local school officials as those officials attempt to deal with the complex and often troublesome problems arising from the schools' attempts to maintain an educational environment conducive to learning. These guidelines are merely that: they are not meant to be mandatory impositions placed upon local school districts and their officials by the State.

The need for guidelines of student conduct is also reflected in increased litigation concerning student behavior. The mixed findings in recent court cases have pointed out the lack of set procedures that ensure student and school board rights.

These guidelines describe areas of concern as indicated by recent litigation, questions received from local school districts, and complaints received from parents and students. They also present, as a frame of reference, the status of current school law where and as it applies to the area of students' rights and responsibilities.

C. ORGANIZATION OF DOCUMENT

The document is divided into five major sections. The first section presents background information and states the purpose and need for such a document.

The second section describes the aspects of current law and practices relative to student behavior.

The third section deals with specific student behavior in terms of rights and responsibilities. Approximately twelve major areas of student behavior and concern have been identified. School districts experience the most difficulty in these areas; hence, suggested procedures have been recommended for local school district consideration.

Because of the very high degree and anxiety on the part of parents, students and administrators, the twelfth area of student behavior — suspension of students — is discussed separately in the fourth section of the document along with guidelines for procedural due process.

The fifth section is a summary of the document with requests for continual review and reevaluation by the educational, student, and citizen community.

part 2

CURRENT LAW AND PRACTICE

A. AUTHORITY OF LOCAL BOARDS OF EDUCATION

(1955) P.A. 269 MCLA 340.1 ET. SEQ; MSA 15.3001, ET. SEG is known as the *School Code*.

Section 614 of the *School Code* authorizes local boards of education to enact

"...reasonable rules and regulations relative to anything whatever necessary for the proper establishment, maintenance, management and carrying on of the public schools of such district, including regulations relative to the conduct of pupils concerning their safety while in attendance at school or enroute to and from school."

Nevertheless, as local school boards and school officials adopt rules that maintain an environment conducive to learning, they must also consider other criteria: the authority of the State Board of Education, the rights of students, and the responsibilities of students.

B. AUTHORITY OF THE STATE BOARD OF EDUCATION

The State Board of Education, under its leadership obligations, believes the issue of students' rights and responsibilities to be an important matter, but one best administered by local school districts. The State Board to this point has restricted its official action in this area to simply requiring local districts to adopt written codes of student conduct. The text of the Board's resolution dated December 9, 1970, is as follows:

(that) "... school districts be required, by April 1, 1971, to notify the State Board of Education that the local board of education had adopted, or is adopting, a Code of Student Conduct which code identified categories of misconduct, defines the conditions under which students may be suspended or expelled, and specifies the procedural due process safeguards which will be utilized in the implementation of the locally-adopted student conduct codes..."

C. RIGHTS OF STUDENTS

The Constitution of the United States through the Bill of Rights and subsequent amendments gives all citizens certain rights. The U.S. Supreme Court has declared that students do not shed those constitu-

tional rights by walking through the school door.¹ In other words, young people who are students are protected by the mantle of the Constitution, and that responsibility for protection applies to boards of education as it does other individuals and agencies.²

To be sure, students are citizens in a specialized situation. Specifically, they attend a school whose function and responsibility is to deal with and educate large numbers of people. Because of this special situation, no court of law has ever denied to schools the authority to generally regulate the behavior of the students there assembled. In fact, it may be accurately stated that the legal history of this century indicates a reluctance by courts to involve themselves in the administrative function of the school.

As the state legislature has given school boards rule-making authority regarding student behavior, so is that authority balanced by the Constitution and the Courts.

D. RESPONSIBILITIES OF STUDENTS

The word "responsibility" is not an easy one to define, nor, for that matter, is the word "rights." Although it is relatively easy to glibly quote the phrase "rights must be balanced with responsibilities," this phrase, too, is anything but simply defined.

The concept of rights and responsibilities, or rights *versus* responsibilities needs elaboration. As students have increasingly had their rights clarified through litigation, so too have they been reminded of and instructed in their responsibilities. To be sure, there can be little question as to the inter-relatedness of the two concepts, however there is also an important distinction between the two. Rights, as afforded us by the Constitution, are a legal requirement. The mere fact of citizen status (modified by the Courts' varying interpretations) is enough to bestow these rights. One may lose these rights or be deprived of them if one violates the rights of others.

Responsibilities, on the other hand, are not so clearly spelled out. While rights may be explicit, responsibilities are implicit. Where rights are stated, responsibilities are tacit.

Although it can be said that a person has a responsibility to himself (indeed, that may be said to be a responsibility of very high priority), still, in a democratic society, the word "rights" refers mainly to that which a person may take for himself as an individual. The word "responsibility" refers mainly to the individual's obligation to others within his society, because, in order for an individual to preserve his/her rights, each must

¹*Tinker v. Des Moines Independent Community School District*, 39. US 503; 66 S ct 733; 21L ed 2d 731 (1969).

²*West Virginia Board of Education v. Barnette*, 319 US 624; See also, *In re Gault*, 387 US 1, 13 87 S ct 1428, 1436; 18 L ed 2d 527, 536 (1967).

take upon himself a sense of responsibility toward the preservation of the rights of others. In other words, while an individual does have rights to pursue his own self-fulfillment, those rights must terminate at that point where they begin to impinge upon the rights of others. To fail to recognize this delicate balance and limitations of one's own rights is to fail to see the importance of responsibility in a democratic society. Thus, rights must necessarily be limited, but, ultimately that limitation becomes one's best assurance of the continuation of those rights. If, for example, school-initiated discipline codes are based largely on the concept of disruption to the educational process, students and their parents should know that they are in part responsible for seeing that other students' rights to an education in nondisruptive surroundings are assured. Each student, then, becomes responsible to a certain extent, for the educational rights of his or her fellows. To the extent that responsibilities are fulfilled, rights become more assured. To the extent responsibilities are not carried out, one's rights become jeopardized. It is for this reason that emphasis is placed upon student responsibilities in this document. Each such responsibility listed below should be tested against each student behavior that follows in Part III of this document.

Responsibilities then become the foundation upon which individual rights become meaningful and effective. If one were to enumerate the various responsibilities incumbent upon students, the list would be endless. However, within the school setting and in society, there are responsibilities of such vital significance that not to identify them would certainly denote negligence.

Each student has the responsibility to:

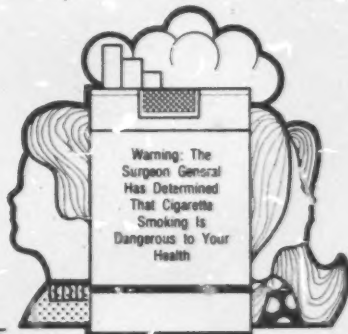
1. Respect the inherent human dignity and worth of every other individual.
2. Be informed of and adhere to reasonable rules and regulations established by boards of education and implemented by school administrators and teachers for the welfare and safety of students.
3. Study diligently and maintain the best possible level of academic achievement.
4. Be punctual and present in the regular school program to the best of one's ability.
5. Refrain from libel, slanderous remarks and obscenity in verbal and written expression and observe fair rules in conversation and responsible journalism.
6. Dress and appear in a manner that meets reasonable standards of health, cleanliness and safety.
7. Help maintain and improve the school environment; preserve school property and exercise the utmost care while using school facilities.

8. Deport oneself in an appropriate manner while in attendance to all school or school related functions held on or off school grounds.
9. Continue or become actively involved in one's education, understanding of people and preparation for adult life.

part 3

STUDENT BEHAVIOR AND GUIDELINES

Guideline 1 Smoking in the Schools



CURRENT LAW AND PRACTICE

Perhaps the largest single discipline problem faced by public schools in Michigan, and in the nation, is the question of student smoking. Generally, Michigan public schools, under the authority of Section 614 of the *School Code*, have enacted rules prohibiting student smoking in schools on school grounds and at school functions.

The *School Code* does not include specific regulations concerning student smoking in public schools. The Courts have not provided any definitive information in regard to the issue of student smoking. However, the *Criminal Statute* of Michigan specifies that no minor may purchase or possess cigarettes MCLA 722.642; MSA 25.282. Additionally, any adult who encourages the assembly of minors for the purpose of smoking on property held by him is guilty of a criminal offense. MCLA 722.643; MSA 25.283.

SUGGESTED PROCEDURES

As many school officials are aware, the administrative problem of dealing with student smoking in violation of local school rules is prevalent and difficult. It is noted that in some schools student smoking "lounges" similar to such facilities now maintained for teachers have been established. In those instances, student smoking lounges are to be used only by students 18 or older. Also note that the State Board of Education in its publication *The Age of Majority* recommended that: "No person shall be allowed to smoke in the school building or on the school premises, except in prescribed areas; no person shall be allowed to smoke at school functions, even those held away from school. Students shall, however, be allowed to carry tobacco products on their persons, providing they are at least 18 years of age." It should be noted, however, that there is no age law prohibiting the carrying of tobacco products.

*The Age of Majority: Guidelines for Local Districts, Michigan State Board of Education, 1972 p. 13.

Guideline 2 School Records



CURRENT LAW AND PRACTICE

No single area of interest in the general field of students' rights and responsibilities is shrouded in uncertainty for all participants in the school experience as the specific question of student's records. MCLA 600.2165; MSA 27 A. 2165

No teacher, guidance officer, school executive or other professional person engaged in character building in the public schools or in any other educational institution, including any clerical worker of such schools and institutions, who maintains records of students' behavior or who has such records in his custody, or who receives in confidence communications from students or other juveniles, shall be allowed in any proceedings, civil or criminal, in any court of this state, to disclose any information obtained by him from such records or such communications; nor to produce such records or transcript thereof, except that any such testimony may be given, with the consent of the person so confiding or to whom such records relate, if such person is 18 years of age or over, or, if such person is a minor, with the consent of his or her parent or legal guardian.

This statute is the sole reference to the question of student records. Additionally, little can be found in case law or findings of courts that is pertinent to the complex problem faced daily by school administrators, counselors, secretaries, students and their parents.

The magnitude of this problem in Michigan public schools is probably best reflected in the codes of student conduct in the files of the Michigan Department of Education. Practically none of these locally adopted codes of conduct specify to the student how records, either cumulative, psychological or anecdotal, are acquired, maintained or disposed of by the school. It is possible, therefore, that most Michigan school districts do not now have operative written policy or procedures governing the school's practice regarding students' records. To illustrate, local officials and school boards may wish to ask the following questions:

What should be the purpose of the school's keeping of student records?

What decisions and actions should be based on the contents of the student's file?

What material should be placed in the student's file?

Should there be more than one set of records for each student?

Should the student and/or his or her parents or guardian be notified when anecdotal material is inserted in the student's record?

Should the student rebut such anecdotal material?

Should the student be permitted to see the material contained in his or her records?

Should the parent or guardian be permitted to see the material contained in the student's record?

To whom, outside the school, should the school provide access to any information contained in the student's record?

Should such access be authorized only by permission of the student and/or the student's parent, if a minor?⁴

As can be seen by the listing of only some of the questions pertinent to this area of concern, there are many gray areas concerning students' records.

Although courts of law still must decide in many of these areas of litigation, much sound and extensive research has been conducted on the right of privacy, especially as it pertains to student records. Probably the most outstanding research effort resulted from a conference convened by the Russell Sage Foundation whereby effective guidelines were developed for the collection, maintenance and dissemination of data in the records of school students.⁵

SUGGESTED PROCEDURES

It is suggested that local school districts address themselves to the often complicated task of defining and implementing substantive and procedural practices concerning the issues of students' records, as partially illustrated by the questions above. These policies and procedures should be adopted uniformly throughout the school district rather than on a school-to-school basis.

As a suggested guide to school officials, reprinted below are excerpts from the four pertinent areas of student records as recommended by the Russell Sage Foundation Report.⁶

⁴MCLA 600.2165; MSA 27 A. 2165.

⁵*Guidelines for the Collection Maintenance and Dissemination of Pupil Records: Report of a Conference on the Ethical and Legal Aspects of School Record Keeping*. Russell Sage Foundation at Sterling Forest Conference Center, Sterling Forest, NY. May, 1969. Connecticut Printers, Inc., Hartford, Conn.

⁶*Ibid*

1. Collection of Data

- a. School authorities are urged to begin "from the fundamental principle that no information should be collected from students without the prior informed consent of the child and his parents."
- b. "Such consent may be given either individually or through the parents' legally elected or appointed representatives (for example, the Board of Education) depending on the nature of the information to be collected."

2. Classification and Maintenance of Data

- a. One category would contain certain minimum personal data necessary for operation of the educational program; (names, address of parents, date of birth, grades, standardized achievement scores, attendance). This information can be accessible to reputable agencies and individuals with the understanding and consent of students and parents or guardians.
- b. Other categories would include more personal and sensitive information potentially useful over a period of time; (such as health data, standardized intelligence and aptitude tests, family background information, teacher and counselor ratings, clinical findings and behavioral investigations).

This information should be closely guarded and, where appropriate, destroyed once its usefulness is ended. Only other school officials within the district or the state superintendent or his designates may receive this information, excepting a judicial order or orders of administrative agencies where those agencies have the power of subpoena. Parents and/or students should be notified of all such orders and the school's compliance.

3. Administration of Security

"It is recommended that schools designate a professional person to be responsible for record maintenance and access, and to educate the staff about maintenance and access policies. All school personnel having access to records should receive periodic training in security, with emphasis upon privacy rights of students and parents.

Records should be kept under lock and key at all times, under the supervision of the designated professional.

It is recognized that computerized data banks pose special problems of maintenance, security, and access not fully dealt with by these Guidelines. These problems should be fully

explored and procedures developed for dealing with them, with the understanding that use of external data banks for record-keeping should be in accordance with all procedures outlined in these Guidelines."

4. Dissemination of Information Regarding Pupils

"As indicated in previous sections, all information regarding pupils and their families should be collected and maintained under such safeguards of privacy as may be obtained through informed consent, verification of accuracy, limited access, selective discard, and appropriate use. As long as the data are retained within the school, it can implement these principles with some flexibility of procedures. The school, however, is often asked to transmit student information to other agencies, institutions, and even individuals. Such requests come from schools, colleges, employers, courts, police, social agencies, and sundry others. Since conveyance of records removes the data from control of the school, much more stringent precautions are required to protect the rights of the student against infringement of privacy, misinterpretation of data, and inappropriate use."

Guideline 3 Student Publications and Newspapers



CURRENT LAW AND PRACTICE

Most Michigan secondary schools and some elementary schools publish school newspapers, literary journals and other student-oriented publications. Traditionally, these school-student publications have been overseen by a faculty sponsor and/or the school administration. School policy that would control these publications or establish procedures regarding the control of these publications has ordinarily been absent, thus any sense of "adult" control has been vested in the faculty advisor or sponsor — usually a journalism or English teacher. In recent years, however, this area of school interest, as is true of many others, has become one of increased concern to school officials as students have questioned the appropriateness of school control in what students tend to consider "their" publications.

As troublesome as some school districts have found the problem of control to be, others have found it to be even more extended, for as students have encountered either official or unofficial control of their literary and journalistic offerings, such encounters have occasionally produced that time-honored phenomenon, the "underground" newspaper.

Michigan school officials, in attempting to deal with these problems, ask these questions:

In a school-sponsored (i.e., financed) newspaper or other publication written by students, can censorship be applied?

If so, to what degree?

If the school publication is financed by student funds (e.g., student activity fees), is official censorship possible?

Can students found publishing and distributing "underground" publications be censured or otherwise punished (e.g., suspended or expelled)?

As with many other areas of the student rights issue, the answers to these easily asked questions are less than definitive.

Michigan school law does not deal with this issue. Case law in Michigan is not instructive. One case brought to trial within the state, for example, was dismissed prior to a judgment.⁷ In that case, a high school student was suspended for distributing an "underground" newspaper loosely connected to students and ex-students of Michigan State University. When the student brought suit against the school district, school officials agreed to rewrite the policy in question and reinstate the student.

Perhaps the most instructive case for Michigan school officials in this area involved some Illinois high school students⁸ who, at their own expense published and distributed a publication called "Grass Hgn." The publication, among other things, contained an article that was quite critical of some school officials. Subsequently, the students involved were permanently suspended from school under the authority of a statute very similar to *School Code* Section 613. The students, in due course, sued the school district and were subsequently upheld in the Seventh U.S. Circuit Court of Appeals.

School officials concerned with these issues would be well-advised to study this case in full, but, to summarize, the Court found (1) that no substantial disruption or material interference with the school's procedures had occurred, and (2) that while the article reflected a "disrespectful and tasteless attitude toward authority,"⁹ the school board's disciplinary action constituted "an unjustified invasion of (the students') First and Fourteenth Amendment rights."¹⁰

SUGGESTED PROCEDURES

Thus, in the above case at least, the school's authority to enact rules governing the behavior of students and its parallel authority to suspend and expel students who violate those rules was tempered by both the basic First and Fourteenth Amendment rights of the individuals and the concept of material disruption to the school environment.

The above case, dealing as it does with unofficial or underground student publications, is to a degree less instructive regarding the school and its legal ability to regulate official, school-sponsored publications. In this respect, it is essential that

1. school rules regulating student-run, school-sponsored publications should be clearly and comprehensively defined as to prohibited behavior.

⁷*Faulk v. Grand Ledge Board of Education*, G-95-72CA, (1972).

⁸*Scoville v. Board of Education of Joliet Township High School District*, 425 F2d 10 (CA 7), cert den 400 US 926, 91 SCt51, 27 LE2d 55 (1970). See also, *Burnside v. Byars*, 363F2d744 (CA5, 1966). *Pickering v. Board of Education of Township High School District 205*, 391 US 563; 88 SCt 1731; 20 LE2d 811 (1968).

⁹*Scoville v. Board of Education*, supra, 425 F2d, at 14.

¹⁰*Scoville v. Board of Education*, supra, 425 F2d, at 15.

2. school officials should provide for effective supervision of school sponsored newspapers, not permitting obscene or libelous material, and editing material that would cause a substantial disruption or interference of school activities.

Two other aspects of "freedom-of-the-press" rights deserve mention. First, school officials would be well-advised to establish, before the fact, rules and procedures for the distribution of publications — be they school-sponsored or "underground." Such rules and procedures might basically address themselves to the manner, method, time and place of distribution. Secondly, some thought should be given to the type and amount of advertising, if any, to be solicited, sold and accepted in official school publications. The point of this is without appropriate school regulation, if the school accepts commercial advertising in the newspaper it might very well be legally obliged to accept political advertising,¹¹ and, by the same token, if such advertising is accepted in official school publication, it may not be defensible to ban such advertising in "underground" publications. Advertising content, of course, would be subject to the same rules and regulations that might be established for the basic publication.

¹¹See *Lehman v. City of Shaker Heights*, 34 Ohio St 2d 143; 296 NE 2d 683, cert granted —US—: 94SC1443; 38 LED2d 312 (1973).

Guideline 4 Other First Amendment Rights



CURRENT LAW AND PRACTICE

In addition to student publications, there are other areas of concern that involve U.S. Constitutional First Amendment rights. Most Michigan school districts have not yet reduced these issues to rules and procedures contained in student codes of conduct, reflecting perhaps a minimum amount of difficulty with student behavior vis-a-vis these issues. Nevertheless, a certain amount of difficulty has been experienced by Michigan school officials; thus it seems appropriate to briefly discuss these other First Amendment issues.

1. Patriotic and Religious Activities

The courts have generally upheld students who, for whatever their reasons, choose not to participate in school-initiated or sponsored patriotic observances and practices.¹² School Districts should therefore adopt procedures for accommodating these students in order that the corresponding rights of those students who do choose to participate are protected.

Regarding religious observances and practices in the public schools, the Supreme Court has decided that the following activities are prohibited:

- a. Released time for religious instruction on public school property during the school day;¹³
- B. Recitation of religious prayers on public school property during the school day;¹⁴
- C. Readings from the bible on public school property during the school day.¹⁵

Students are *permitted* and have the right to be excused for not more than two hours per week to attend religious instruction

¹²*West Virginia State Board of Education v. Barnette*, *Supra*.

¹³*Illinois ex rel. McCollum v. Board of Education*, 333US203; 68SC1461; 92SC1649 (1948). But see, *Zolach v. Clauson*, 343US306, 72SC1679, 96LEd2d 954 (1952).

¹⁴*Engel v. Vitale*, 370US421; 82SC11261; 8LEd2d601 (1962).

¹⁵*School District of Abington Township v. Schempp*, 374US203, 83SC11560, 10LEd2d844 (1963).

classes off public school property during public school hours with permission of parents and guardians. (Sec. 732 School Code)

2. Assembly, Petition, Symbolic Speech, Inquiry and Expression

Generally, these First Amendment issues can be dealt with by local school officials in much the same way that student publications are handled. It may be well to remember that while students, as citizens, are protected by the first Amendment, they nevertheless are subject to the "reasonable rules" of the school. Thus, for example, if an activity associated with circulation of a student petition substantially disrupts the normal activities of the school, the circulation (and the appropriate students) can be regulated. Similarly, if a student or students symbolically express themselves *without* disrupting school activities, rules or procedures attempting to curtail or eliminate such symbolic behavior may encounter legal difficulty. The most notable case in this respect¹⁶ found the United States Supreme Court upholding high school students who, by wearing black armbands, sought to protest this country's military involvement in Vietnam. On the basis that, where other forms of political expression have been allowed by school authorities, there had been no material or substantial disruption to the school setting, the Supreme Court ruled the school district's attempt to prohibit such form of expression is unconstitutional.

SUGGESTED PROCEDURES

The law is fairly clear and explicit regarding freedom of expression and religious activities within the school, (as indicated on the previous pages, footnotes 11, 12, 13, 14, and 15). It is recommended that school administrators become familiar with these rulings and so provide students with proper guidance. Portions of the latter areas of study involve issues of controversy with various groups and individuals advocating different positions. Study and discussion of these issues would be a prime example of the educational process at work in a responsible and regulated setting.

¹⁶*Tinker v. Des Moines Independent Community School District*, *supra*; also, *Burnside v. Byars*, *supra*; *Church v. Board of Education of Saline Area School District*, 339 F Supp 538 (ED MICH. 1972).

Guideline 5 Dress and Grooming



CURRENT LAW AND PRACTICE

A major discipline problem five years ago, dress and grooming is probably by comparison a relatively trouble free area of student discipline in most schools today.

Neither the Michigan general school laws nor the State Board of Education has attempted to regulate student conduct in terms of dress and grooming. There are court decisions on both sides of the question. Thus far, the U.S. Supreme Court has refused to hear any of the "hair" cases.

In response to a request from the State Board of Education, the Michigan Attorney General on November 27, 1972, issued an opinion which, in effect, says that lacking State Board of Education regulations, local school districts are within their authority to suspend and expel students who violate dress and grooming rules.¹⁷ On the basis of the Attorney General's opinion, therefore, it seems clear that local school boards may reasonably regulate dress and grooming of students.

Current practice of Michigan school districts regarding student dress and grooming varies widely. It appears that a steadily increasing number of districts attempt to regulate dress and grooming of students only when such behavior is disruptive to the school setting, is obscene, or presents a health or safety hazard. This position is generally supported by the Michigan Association of School Boards, The Michigan Association of School Administrators, the Michigan Association of Elementary School Principals, the Michigan Education Association, and the Michigan Federation of Teachers. Court challenges to such criteria have been largely unsuccessful. For example, in one Michigan case¹⁸ tried in Federal District Court, a student whose hair length exceeded the school's grooming code won the case partly because the district admitted that his hair length did not disrupt the educational activities of the school but see *Graber v. Kniola*, Michigan Court of Appeals No. 15149, issued March 27, 1974,

¹⁷Letter of Opinion, Attorney General Frank J. Kelly, November 27, 1972.

¹⁸*Church v. Board of Education of Saline Area School District*, supra But see, *Gfell v. Rickelman*, 441F2d-44 (CA6, 1971).

which found unreasonable a dress code provision that requires hair length of male students must not reach the bottom of the shirt collar and must be above the eyes as *unreasonable*, there being no connection between the particular hair style and the establishment, maintenance, management and carrying on of the public schools.¹⁹

SUGGESTED PROCEDURES

School districts that attempt to regulate student dress or grooming on the basis of a particular set of personal values are perhaps more apt to find themselves in legal difficulty, assuming an aggrieved student or parent initiates litigation, and may also be asked by courts to substantiate the reasonableness of such a regulation.

Cleanliness of person and clothing is an essential part of student behavior. It is incumbent upon school personnel as well as parents to so instruct students in this respect, especially as such dress and grooming may adversely affect his or her health and appearance. However, it is the style of dress, hair and facial makeup that seems to cause severe disagreement. It is suggested that the style of clothing, facial makeup and hair be decided upon by the parent and student, or a joint understanding between parent, student and school district as reflected in that districts' local code of conduct. Such styles should not create problems of health and sanitation nor tend to disrupt the educational process.

¹⁹*Graber v. Kniola*, Michigan Court of Appeals No. 15149, March 27, 1974.

Guideline 6 Married and/or Pregnant Students



CURRENT LAW AND PRACTICE

MCLA 388.391-388.394; MSA 15.1958(11)-15.1958(14) prohibit the suspension, expulsion or exclusion of a student from school solely on account of the student's pregnancy.

Michigan law, however, while protecting the rights of pregnant students is silent regarding married students; the practices of individual school districts have varied. Some districts have excluded married students regardless of their age; some districts have required married students to enroll in an adult school or an alternative educational setting; and, some districts have ignored marital status as a criteria for student discipline and attendance. The courts also are of little benefit regarding this issue. Two of the more notable cases in this area have in one case upheld the married student's right to remain in school and in the other upheld the local board's decision to exclude the married student.²⁰

The Michigan Attorney General, however, in a recent letter opinion,²¹ interprets a Michigan Supreme Court ruling of 1960²² as "that married students could not be excluded from school solely because of their marital status."²² Concerning the exclusion of married or pregnant students from extra-curricular activities, the Attorney General further states "... that there is no controlling authority by either the Michigan Supreme Court or the United States Supreme Court on this point."²³ Finally, the Attorney General rules that "... (a) rule or regulation that would bar married and/or pregnant students from participation in extra-curricular activities solely because of their marital and/or pregnant status and based upon nothing more, under the decided cases, would be unreasonable and arbitrary."²⁴ Hence, it is not authorized under Section 614 of the *School Code*.

²⁰*Board of Education of Harrodsburg v. Bentley*, 383SW2d 677 (Ky Ct App, 1964) (upheld student). *State ex rel. Thompson v. Marion County Board of Education*, 202 Tenn 29, 302 SW2d 57 (1957) (upheld Board of Education).

²¹Letter Opinion of the Michigan Attorney General to the Honorable William S. Ballenger, State Senator, Nov. 1, 1972, p. 3.

²²*Cochrane v. Mesick Consolidated School District Board of Education*, 360 Mich 390; 103 NW2d 569 (1960).

²³Letter Opinion of Michigan Attorney General, Nov. 1, 1972, *supra*. ²⁴*Ibid*.

It should be noted that opinions of the Attorney General are binding upon school officials as state officers. (See *Traverse City School District v. Attorney General*, 384 Mich 390, 410), n.2; 185 NW2d 9, 17, n.2 (1971).

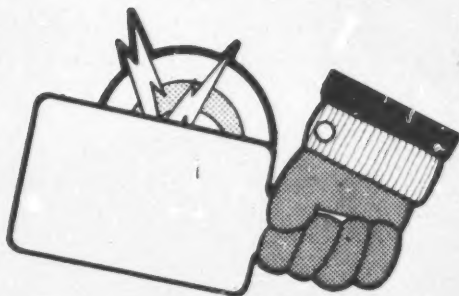
SUGGESTED PROCEDURES

Tradition rather than practicality has guided many school officials in their approach to the problem of married and/or pregnant high school students. Although no statute protects the rights of married students, it is suggested that school officials include in their student handbooks information regarding the marital status of a student and provide counsel or suggested referral services to the student regarding his or her newly acquired role and responsibilities. This may require consideration by both parties of program adjustments, alternative programs and future plans. The emphasis should be on providing guidance to the married student so that his/her education is continued and enhanced, and is not disruptive or deleterious to the school program. Counseling services should be available to married students on the same basis as to other enrolled students.

Although pregnant students are protected by statute, counseling services should be available to them concerning their welfare. Particular consideration, however, should be given to the health and safety of the mother and child. Students should be allowed to participate in all activities unless it can be shown (by physician's statement) that such activity would be harmful to the expectant mother and child.

School authorities should make provision for the continuation of the pregnant students' basic educational courses during the period of absence from school.

Guideline 7 Corporal Punishment



CURRENT LAW AND PRACTICE

The *School Code* contains three sections,²⁵ which authorize the use of physical force by school officials, including teachers, for the purpose of removing from pupils dangerous weapons and for maintaining proper discipline over pupils. While existing law is quite specific regarding such authority, many school districts have established conditions and circumstances modifying or restricting the use of corporal punishment. For example, some school districts specified what form of discipline may or may not be used for such punishment; some districts attempt to regulate the administration of such punishment by restricting to the principal the use of corporal punishment; some school districts have indicated that corporal punishment is to be used only as a last resort; and some school districts have totally rejected the use of corporal punishment.

SUGGESTED PROCEDURES

It should be pointed out that the school's use of corporal punishment as much or more than any other function is contained within the traditional doctrine of "In loco parentis." School officials are advised, therefore, to specify in their student codes of conduct how corporal punishment will be administered. The amount of force that is used must be reasonable and should reflect on the viability, legal, political and educational implications of such use.

²⁵*School Code*, Section 755: "Any teacher or superintendent may use such physical force as may be necessary to take possession from any pupil of any dangerous weapon carried by him.

Section 756: Any teacher or superintendent may use such physical force as is necessary on the person of any pupil for the purpose of maintaining proper discipline over the pupils in attendance at any school.

Section 757: No teacher or superintendent shall be liable to any pupil, his parent or guardian in any civil action for the use of physical force on the person of any pupil for the purposes prescribed in sections 755 and 756 of this act, as amended, except in case of gross abuse and disregard for the health and safety of the pupil."

Guideline 8 Search and Seizure and Police in the Schools



Search and Seizure

CURRENT LAW AND PRACTICE

Students possess the right of privacy of person as well as freedom from unreasonable search and seizure of property guaranteed by the Fourth Amendment of the U.S. Constitution. That individual right, however, is balanced by the school's responsibility to protect the health, safety and welfare of all its students. The most relevant of recent court decisions²⁶ uphold school official's actions in this regard, specifically recognizing the right of school officials to search student lockers when "suspicion arises that something of an illegal nature may be secreted there."²⁷

SUGGESTED PROCEDURES

It is suggested the following determinations be made by school officials relative to the seizure of items in the student's possession and the search of the school property (locker, desk) assigned to the student.

1. There is reasonable cause to believe that possession constitutes a crime or rule violation, or that the student possesses evidence of a crime or violation of law.
2. There is reason to believe that the student is using his/her locker or property in such a way as to endanger his/her own health or safety or the health, safety and rights of others.
3. There is reason or belief that there are weapons or dangerous materials on the school premises. As such school officials must retain the right to act — to search students' desk and/or lockers, and to seize in cases of emergencies — such as in the event of fire or a bomb threat.

When locker checks are made in the exercise of fundamental school authority, students should be informed within the context of general school rules at the beginning of each term. In cases of clearly defined

²⁶*People v. Overton*, 24 NY2d 522; 249 NE2d 366; 301 NYS 2d 479 (1969). *In re Donaldson*, 269 Cal App 509; 75 Cal Rptr 220 (D Ct App, 1969). *State in the Interest of G. C.*, 121 NJ Super 108, 296 A2d 102 (Ct Ct, 1972).

²⁷*People v. Overton*, *supra*, 24 NY2d, at 524; 249 NE2d, at ; 301 NYS2d, at 480.

emergencies and the lack of availability of the students assigned to a locker, the principal or his designee(s) possess the authority to enter. The student, however, should be informed as soon as possible.

CURRENT LAW AND PRACTICE

This is a country of laws, designed to ensure fair treatment of all. Police have the responsibility to protect all citizens by enforcing the laws of the community. The school community should encourage and promote understanding and cooperation with the police. It is the duty of school authorities, students, teachers, parents and police to work cooperatively with each other to insure that the rights of each individual are respected.

Police in the schools are not necessarily an indication of trouble, disruption, or discontent. Police can enter the school upon invitation of school authorities. However, they may also enter if they possess evidence of a crime having been committed or if they have a warrant for arrest or search. Interrogation of students by police is to take place privately within the school and in the presence of the principal or his representative. Parents, and/or guardians are to be informed and should be present whenever possible. The Michigan Attorney General has stated:

1. "Law enforcement officers may be given access to school children on school property during school hours for the purpose of interrogation pursuant to a rule or regulation adopted by the board of education of a school district, subject to such conditions as the board of education in its discretion may reasonably impose."
2. "Law enforcement officers are empowered to arrest a person without a warrant, including children, in the case of a felony where the officer has reasonable cause to believe that the person has committed a felony or a misdemeanor committed in the officer's presence. A rule of the board of education of a school district which would permit (a) law enforcement officer to remove a student from the public schools only upon presentation of a warrant is not in accordance with law."²⁸

SUGGESTED PROCEDURES

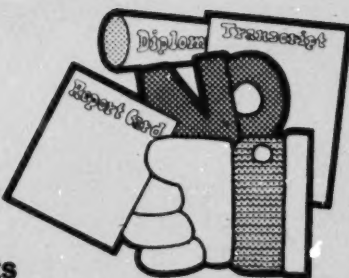
Generally, in this situation, students have the same rights as any other citizen,²⁹ the right to be informed of their legal rights, to be protected (by counsel or school officials) from coercion and illegal constraint, and to remain silent.³⁰ If the doctrine of "in loco parentis" is to maintain its vitality, school officials must continue to have a legal responsibility to protect minor students while they are physically on school grounds or at school functions.

²⁸OAG, 1961-1962, No 3537, p 155 (September 8, 1961).

²⁹In re Gault, *supra*.

³⁰Miranda v. Arizona, 384 US 436, 86 SCt 1602, 16 LEd 2d 694 (1966).

Guideline 9 The Charging of Fees and the Withholding of Grades, Credits, Diplomas and Transcripts



CURRENT LAW AND PRACTICE

Though not usually associated with the larger area of student's rights and responsibilities, a constantly recurring problem for school officials and students alike regards the traditional school response to the loss or damage to school-owned textbooks or other education materials. To illustrate, a student accused of losing or damaging a textbook is sometimes told by school administrators that his grades (and/or credits, diplomas, transcript) will be withheld until either the book is recovered or appropriate financial restitution is made.

The administrative problem schools face in attempting to recover such financial losses is admittedly a difficult one. The apparently small cost represented by one lost or stolen textbook when multiplied by many incidents over many years becomes a significant amount of money. Nevertheless, school officials who utilize this traditional administrative method of recouping losses may encounter legal difficulties.

By way of explanation, it must first be understood that local school districts "may charge students for damage to books and supplies, over and above ordinary wear and tear, and for the loss of books and supplies."³¹ However, there are two separate issues, that speak to the practice of withholding a student's grades or diploma for charges owed to the school.

1. The Michigan Attorney General has declared "that a board of education of a school district is without authority as a disciplinary measure, to withhold a high school diploma of a student who has fulfilled all the academic requirements for graduation."³²
2. There is legal opinion that holds that credits earned by a pupil are valuable, thus property. As property, then the opinion states, the

³¹Memorandum from a Michigan Assistant Attorney General, dated August 12, 1970.

³²II OAG, 1959-1960, No 3545, p 114, 115 (August 29, 1960).

credits cannot be summarily taken away from or deprive the student without violating the due process clause of the 14th Amendment to the Constitution of the United States.³³

SUGGESTED PROCEDURES

One alternative many school districts are beginning to utilize in order to avoid possible legal difficulties and yet recoup their losses, is to collect a deposit at the time the student enrolls. Such action guards against the legal pitfalls discussed above and more nearly assures the district that harmful losses will not occur. This practice has been supported by the State Board of Education. The deposits, however, "must be reasonable and refundable."³⁴ Students without economic means should not be required to furnish deposits.

³³*Steele v. Sexton*, 253 Mich 32; 234 NW 436 (1931) (Potter, J., dissenting).

³⁴State Board of Education Position Statement on Free Textbooks, Materials, and the Charging of Fees, March, 1972. p 2.

Guideline 10 Fraternities, Sororities and Secret Societies



CURRENT LAW AND PRACTICE

Sections 921-924 of the *School Code* declare the illegality of public school students organizing, joining or belonging to fraternities, sororities or other secret societies. Further, the law authorizes the suspension or expulsion of students who are in violation and denies academic credit to such students. School officials and school board members who knowingly consent to, or permit, such student violations are also in violation of the law.

SUGGESTED PROCEDURES

Secret societies, although very much a part of the history of this country, are usually discriminatory in membership and questionable in terms of purposes and goals. For these reasons, among others, school officials are advised to adhere to the prohibitive ruling of the *School Code*.

Guideline 11 The Age of Majority



CURRENT LAW AND PRACTICE

On January 1, 1972, Act No. 79 of the Public Acts of 1971, lowered the age of majority for Michigan citizens from 21 years to 18 years. Since that time, school officials have often asked what considerations, if any, pertaining to student discipline must be or should be given those students who become legal adults prior to their departure from the public schools.

To be sure, there are several implications for school officials, but, generally, the administration of student discipline is not affected by the new law. In other words, in most cases, the age of the student is not a factor in the school's regulation of student conduct. If, for example, school officials wish to totally prohibit student smoking in school buildings, it makes no legal difference whether the student, is 15, 18 or even older. However, an important legal question is raised if adult students are prohibited from smoking while the adult faculty is permitted to do so.

SUGGESTED PROCEDURES

Future litigation may clarify areas of ambiguity relative to the lowering of the age of majority. At present, the following areas appear to contain the most likely problems:

1. **Student Records** — Schools that generally prohibit students from examining their own personal, cumulative and anecdotal records may not legally be able to prohibit the 18-year old from doing so, and should therefore avoid to the extent possible conflicting rules for students because of age.
2. **Attendance Regulations** — Schools that require students to bring a parental excuse for absence or tardiness may not compel the 18-year old student to do so. As in the first instance, the local board of education should adopt procedures which will, to the extent possible, avoid treating students differently solely because of age.

In these areas, school officials are probably best advised to establish procedures for confronting these problems before they develop. The advice of legal counsel is recommended.

Finally, the publication, *The Age of Majority: Guidelines for Local Districts*²⁷ may be of help to local school officials.

²⁷The Age of Majority: Guidelines for Local District, Michigan Department of Education, 1972.

part 4

SUSPENSION OF STUDENTS AND PROCEDURAL DUE PROCESS*



CURRENT LAW AND PRACTICE

1. Authority of School Code

By the authority of Section 613 of the *School Code*, local school boards:

"... may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience, when in its judgment the interests of the school may demand it. ..."

The Legislature in enacting this law did not define "gross misdemeanor," or "persistent disobedience."

2. Education as a Right

Confronted by this statutory authority, as cited above, school administrators are also faced by the conflicting knowledge made more apparent in recent years that public education, rather than being a privilege, is an important right. There are many problems experienced by school administrators pertaining to suspension and expulsion, particularly of students under the age of 16, regarding the legal and constitutional concept of procedural due process of law. Students who are in danger of being either suspended or expelled have shown an increasing desire, as supported by many courts, in being provided procedural due process; and

*Though the law specifically authorizes the suspension and expulsion of students, and though the concept of such excursions are similar, this section of the Guide attempts to deal primarily with the questions of suspension and procedural due process, since the State Board of Education is in the process of developing statewide expulsion appeals procedures.

while neither the *School Code* nor the State Board of Education has defined procedural due process for purposes of suspension and expulsion, there are, however, a number of component elements that both speak to and embody the concept of procedural due process.

In Michigan schools, expulsion, as the most serious school-initiated punishment, should be decided upon by the board of education upon recommendation of the superintendent and his subordinates MCLA 340.613; NSA 15.3613. However, the State Board of Education is in the process of developing a statewide process on student expulsion appeals procedures, with emphasis *only* on *procedural* due process.

Suspension, on the other hand, resists easy classification to a greater extent than expulsion and its subsequent processes. A suspension "for the remainder of the school year" may be for one day, one week, one month, and even a semester or longer. Similarly an indefinite suspension or suspensions made pending compliance with a given rule can obviously be for very short or very long periods of time. As mentioned earlier, procedural due process requirements will also vary depending upon the length of suspension.

SUGGESTED PROCEDURES

Elements of Procedural Due Process

The following are some of the elements of due process that should be considered:

1. The timely and specific notice of charges against the student.
2. The student's right to question each member of the professional and school staff involved in or witness to the incident.
3. The student's right to present evidence in his or her behalf.
4. The student's right to an impartial hearing.
5. The student's right to confront and to cross examine adverse witnesses and to present witnesses in his or her behalf.
6. The student's right to be represented by qualified counsel at the hearing.
7. The student's right to a record of the hearing.
8. The student's right to appeal an unfavorable decision by the hearing panel to a higher authority.

The elements noted above are the embodiment of a concept. However, there is obviously a great deal of substantive difference between a one-day suspension for being mildly insubordinate and an extensive suspension for persistent, recurrent disobedience. A student in danger of being suspended indefinitely — in other words, being deprived of his right to a public education — might well expect to receive

all or most of the elements listed above prior to such action." Indeed, one case³⁷ tried in U.S. District Court ordered a Michigan school district give an expelled student a hearing in accordance with the guidelines laid down in an earlier Federal case.³⁸ Those guidelines, the Court noted, included "notice containing a statement of the specific charges and grounds which, if proven, would justify expulsion under the regulations of the Board of Education; a hearing affording 'an opportunity to hear both sides in considerable detail' preserving the rudiments of an adversary proceeding; names of witnesses against the student; and, the opportunity to present to the Board his own defense."³⁹ A student being suspended for a short period of time, on the other hand, might receive adequate procedural due process by a conversation with the principal. Such a conversation would confront the student with the alleged rule violation and offer the student an opportunity to deny or rebut whatever evidence is offered against him.

It seems important to emphasize the flexibility of the concept of procedural due process. As one court has stated, "the hearing procedure required, will vary depending upon the circumstances of the particular case."⁴⁰ Another Federal District Court in Michigan declared that the principles of due process "are very flexible and the degree of rigidity depends upon the gravity of the penalty which may be imposed"⁴¹ (emphasis supplied). As one Federal District Court noted, it is "clear that it [procedural due process] need follow no particular ritual. . . ."⁴²

It would probably be best for local school officials to classify suspensions and resulting due process requirements in a uniform, districtwide fashion. For example:

³⁷Vail v. Board of Education of Portsmouth School District, 354 F Supp 592 (D NH, 1973).

³⁸Vought v. VanBuren Public Schools, 303 F Supp 1388 (ED Mich, 1969).

³⁹Dixon v. Alabama State Board of Education, 294 F2d150, 156 (CA 5), cert den 368 US 930, 82 SCt 388, 7 LEd 2d 193 (1961).

⁴⁰Vought v. VanBuren Public Schools, supra, 303 F Supp, at 1393.

⁴¹Davis v. Ann Arbor Public Schools, supra, 303 F Supp, at 1393.

⁴²Godsey v. Roseville Public Schools, US District Court, Eastern District, Michigan, Case No. 34988.

⁴³Davis v. Ann Arbor Public Schools, supra, 313 F Supp, at 1227.

Length of Suspension	Who Suspends	Procedural Due Process Requirements
1-5 school days	Principal upon delegation of authority of board of education	a. informal meeting with principal prior to suspension b. student presented with charges, evidence and witnesses, if any, against him c. student given opportunity to deny charges, rebut evidence and question accusers and witnesses d. unfavorable decision may be appealed to superintendent or his designee
6-10 school days	Superintendent upon recommen- dation of prin- cipal and with delegated authority of board of education	a. informal hearing with superin- tendent or person designated by the local school board b. student presented with charges, evidence and witnesses, if any, against him c. student given opportunity to deny charges, rebut evidence and question accusers and witnesses d. student entitled to present own witnesses or to be represented by an attorney e. unfavorable decision may be appealed to local board of education
More than 10 school days	Board of Edu- cation upon recommendation of superintendent	same as expulsion

Note that the above is intended *only* as a guide to local school districts, an illustration of a system that might be utilized.

The right to an education is a very basic right. At the same time some students may be expelled for various reasons. However, this action should be used judiciously and at the same time school districts should establish and develop alternative means for such students to receive an education.

Apparently some Michigan school districts have already become aware of and sensitive to these impending difficulties as reflected by the establishment of public alternative schools. Still other districts have expressed in their codes of student conduct the intent or desire to provide such alternative education to students who are suspended and expelled. The State Board of Education supports this concept.

part 5

SUMMARY

As styles of living and traditional habits change in our society no one institution experiences the trauma involved and, at the same time, the often severe task of trying to overcome such trauma, than the educational institution.

Students, in preparation for their various roles in the adult society, must be conscious of their rights and committed to their responsibilities. In providing leadership for local school districts in Michigan, the State Board of Education, working in close conjunction with various representative elements of these local school districts, has developed a comprehensive guide that speaks to approximately twelve crucial areas of student rights, while at the same time noting that coupled with rights of students are inherent student responsibilities, nine of which are highlighted in part II of this document.

Each of the twelve areas of student behavior is discussed primarily from two standpoints:

1. Current Law and Practice

The elements of compiled Michigan laws (School Code) that may apply to student behavior plus a review of various court decisions and state Attorney General opinions.

2. Suggested Procedures

In each area, this is followed up by some suggested approaches or procedures local school districts may follow where appropriate.

Students need and seek proper guidance and direction. Most school districts in the state have been providing it for many years through the promulgation of their own locally developed and adopted codes of student behavior. Many of these documents were utilized as resource information in the development of the state guidelines.

In retrospect, the need for such guidelines stem from the following:

1. There are some districts that have poorly developed or no codes of student conduct. Some of these districts, among others, have requested assistance and guidance as they attempt to establish new and updated student rules and regulations.
2. Other districts constantly find their student codes outdated by the times or upstaged by the courts on various decisions affecting student conduct so many requests were received to keep local districts informed as to the current information and trends.

3. There appears to be a need for consistency of procedures from across the state so that each local school code of conduct, in a broad sense, reflects the spirit and the reality of the Michigan Board of Education's *Common Goal*, "*The Rights and Responsibilities of Students*."

It should be kept in mind that throughout this process five major factors form the basic "failsafe" ingredients and requirements which should accompany all prescribed school rules."

1. Rules must be disseminated and known in advance.
2. Rules must have a proper educational purpose.
3. Rules must have a rational relationship to that educational purpose.
4. Rules must be reasonable and clear in meaning.
5. Rules should be specific in scope.

If someone has a right, someone else has a responsibility. In other words, if a school board has a *right* to adopt a student code of conduct, then students have a *responsibility* to conduct themselves in accordance with such a code of conduct.

Local boards of education are urged to use this document as a basis for referral and direction in developing and/or refining their own local student behavior guidelines. Each board of education, superintendent and secondary school principal in the state will be provided with a copy. It is expected that in addition to its use as a resource for local code development, its contents and suggested procedures will be discussed with parents, students and interested citizens within each district.

Finally, one of the important purposes of the document is to invite constant and continued review and reevaluation of a consistent and effective approach to student behavior by the educational community and citizenry. Only in this cooperative way, through educational leadership at the state and local levels, combined with parent and student involvement, can school officials continue to improve the educational models in this state and provide for all youth humane solutions and directions to human problems and concerns.

NOTE: An extended bibliography concerning the issues dealt with by the Guidelines has been filed with the Michigan Department of Education, State Library, 735 East Michigan Avenue, Lansing, Michigan (517) 373-1593 and is available upon request.

"Dr. E. Edmond Reutter, Professor of Education Teachers College, Columbia Univ., N.Y., Presentation before "The National Task Force for High School Reform", Atlanta, Ga. March 4, 1974.

For additional information, contact Office of School and Community
Affairs, Box 420, Michigan Department of Education, Lansing, MI 48902.
(517) 373-3260.